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# State of Utah

## DEPARTMENT OF NATURAL RESOURCES

MICHAEL R. STYLER  
Executive Director

### Division of Oil, Gas and Mining

JOHN R. BAZA  
Division Director

Outgoing  
To File  
170430012  
170430032 No

March 4, 2008

Mr. Ron George  
Attorney for Star Stone Quarries  
218 West Paxton Avenue  
Salt Lake City, Utah 84107

080001

Re: Request for Hearing received February 22, 2008

Dear Mr. George;

The Division has received your request for a hearing "pursuant to Utah Code §63-46(b)" of the "decision granting Wright/Garff Resources, LLC a small mining permit and requiring Star Stone Quarries to revise their mining permit." It is assumed that this Request is intended as a request for an informal adjudication before the Division Director. The Request is ambiguous. This letter is sent because clarification is necessary and to suggest that the matter should perhaps have been more properly filed with the Board.

You state in the reasons for the request that the "Department has no jurisdiction to grant a permit or order action be taken by Star Stone while the appeal [to the Supreme Court] is pending." It is the Division's position that it is obligated to abide by the October 5, 2007 Order of the Board in Cause No. 2007-011 and that the appeal to the Utah Supreme Court does not stay the Division's obligations under that Order unless either the Board or the Supreme Court orders a stay. Utah Code §63-46(b)-18 provides that "during the pendency of a judicial review," the parties may petition the agency [Board] for a stay. Since neither Star Stone nor Wright/Garff have filed for a stay, the Division believes it is without authority to do otherwise than process the permits as ordered.

If the basis of your filing a Request for Hearing is to object to the Division's processing of the revised Wright/Garff Notice, and to object to the Division's request that Star Stone file a revised Notice within 45 days, as ordered; then such objections go to the Order, and you should seek a stay from the Board or the Supreme Court. The Order was very emphatic that Wright/Garff should file an amended Notice, and that the Division should then insist on Star Stone filing an amended Notice within 45 days. The Division was specifically directed to take all actions necessary including pursuing civil or criminal penalties and asking the Board to withdraw the permit if Star Stone fails to timely submit a revised Notice of Intention.

If, on the other hand, the basis of your appeal concerns the manner of decision-making by the Division regarding the revised Wright/Garff small mine Notice of





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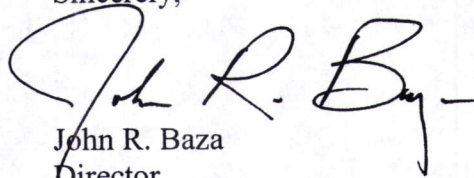
Intention, or the revision of the Star Stone notice, then there may be reason to ask for a hearing before the Division. Such a request should set forth the basis for claiming that the decisions are arbitrary, and not rely on only bald allegations. If that is your client's intent then an amended request is needed.

Finally, you should understand that a request for an informal adjudication before the Division does not automatically stay the obligations of Star Stone to comply with the Division's decision. A request for such a stay would be needed. Due to the current posture of the case, such a request would most likely result in the matter being converted to a formal adjudication before the Board as occurred last time. In that event, the Board would also be the appropriate entity to determine if a stay is appropriate.

The deadline for Star Stone to comply with the Division's request for a revised notice is March 10, 2008. Absent any extraordinary relief, the Division will take such actions it deems appropriate and consistent with the Board Order including asking the Board to withdraw the permit.

Your immediate response is necessary.

Sincerely,



John R. Baza  
Director

cc: Board of Oil, Gas & Mining  
Steve F. Alder, Attorney for Division of Oil, Gas and Mining  
Mary Ann Wright, Associate Director, Mining  
Susan White, Minerals Program Manager